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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,357	11/19/2003	Ming-Ming Yu	YUMI3004/EM	3795
23364	7590	07/01/2004	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			VU, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,357

Applicant(s)

YU, MING-MING

Examiner

Stephen A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: on line 19, the phrase "a central screw hole" should be changed to "the central screw hole", since antecedent basis support for the member has been previously defined on lines 6-7. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "web-like" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yundt et al in view of Graves and Pryde et al.

Yundt et al show a swivel cushion comprising a base plate (26) and a swivel ball seat (46) having a circular web design with a number of orifices with steel balls (50) embedded (see Appendix A- Figure 3). It is interpreted that the base plate (26) has a center wherein a perforation exists. The swivel ball seat (46) is placed within the center of the base plate and therefore within the perforation of the base plate (26). The swivel ball seat (46) further defines a central screw hole at a center of the swivel ball seat. A swivel plate (48) has on a base with circular tracks of variant diameter and a screw hole in the center of the plate. A cushion (22) has a base (44) joined to the swivel plate (48). A padded seat (20) is positioned above the cushion (22) (as viewed in Figure 4) with the lower portion (40) of the seat adhering to the padded upper portion (32) of the cushion (22). A screw (56) is passed through the perforation of the base plate and the central screw hole of the swivel ball seat and the swivel plate.

Yundt et al does not disclose whether or not the padded upper portion (38) of the seat (20) is made of foam rubber. Graves teaches a seat comprising a foam rubber material (22) (see col. 2, line 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the padded upper portion (38) of the seat (20) of Yundt et al's invention with a foam rubber material as taught by Graves, in order to provide a better comfortable support for the user's buttocks.

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Furthermore, Pryde et al show a seat cover (10) with a drawstring to completely cover the seat to prevent dusts and dirt from reaching the seat. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a seat cover of Pryde et al's invention to cover the swivel cushion of Yundt et al's invention from the top of the seat (20) to the bottom of the base plate in order to prevent dusts and dirt from staining the swivel cushion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ropp, Slingerland, Jr., Van Der Meer, Carnahan et al, and Findlay are cited as showing similar types of swivel assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Stephen Vu". The signature is fluid and cursive, with the first name "Stephen" written in a larger, more prominent script than the last name "Vu".

Stephen Vu
June 26, 2004